



Nebraska Sales and Use Tax
FOR CONSTRUCTION CONTRACTORS
Spring 2010

This PowerPoint handout is used for training purposes in conjunction with the oral presentation given by Departmental training staff.

It is not intended to be a stand-alone document.

It is not an information guide, nor does it carry regulatory or statutory authority.

Nebraska tax statutes, regulations, information guides, and other resources are available at www.revenue.ne.gov .

CONTRACTOR DATABASE

- **EVERY** construction contractor making payment to a subcontractor must withhold 5%
- **UNLESS** the subcontractor is **REGISTERED** in the [Department of Labor's Contractor Registration Database](#)

TERMS

- **CONSTRUCTION CONTRACTOR**
- **CONTRACTOR LABOR**
- **BUILDING MATERIALS**
- **FIXTURES**

CONSTRUCTION CONTRACTOR (CONTRACTOR)

- Makes repairs or improvements to real property
- Arranges for annexation (general contractor)

Example: Landscapers who build or repair retaining walls, berms, or ponds

CONTRACTOR LABOR



- Annexing building materials to real estate
- Repair of a structure
- Repair of building materials that are or will be annexed to real estate
- Charges for contractor labor are not taxable

Example: Hanging drywall

Contractor Labor (continued)

- If you install telephone or community antenna television, there are specific sales and use tax regulations governing the taxability of these projects.

*Please refer to Nebraska Sales and Use Tax
Regulation [1-017, Contractors](#).*

BUILDING MATERIALS



- Property (including fixtures) that will be annexed to real estate or to an improvement on real estate
- **DO NOT INCLUDE:**
 - Tools;
 - Equipment;
 - Supplies; or
 - Other items not annexed.

Example: Rebar embedded in concrete is a building material. Form lumber is not.

FIXTURES



- Equipment that is annexed to a building or structure so that it can properly function
- Fixtures remain identifiable as a separate item

Example: Water heater

3 TYPES OF TRANSACTIONS

1. Retail Sales

Taxable at rate in effect where delivery occurs

2. Contractor labor

Not taxable

3. Other services (not construction)

Taxability determined by type of service

CONTRACTOR OPTIONS

- Contractor Options apply only to **Construction Contractor Projects (CCP)**
- Option chosen determines:
 - How sales and use tax is paid on building materials and fixtures; and
 - If sales tax is collected from the customer on building materials and fixtures
- If an Option is not chosen, the default is Option 1. Audits will be conducted based on option chosen.

OPTION 1



- RETAILER of all building materials
- Maintains tax-free inventory
 - Give suppliers [Form 13](#), Section C, Block 1
- Collects sales tax on building materials and fixtures used in the CCP
- Separately stated charges for contractor labor are NOT taxable

Nebraska Resale or Exempt Sale Certificate for Sales Tax Exemption

FORM
13

• Read instructions on reverse side/see note below

NAME AND MAILING ADDRESS OF PURCHASER			NAME AND MAILING ADDRESS OF SELLER		
Name			Name		
Street or Other Mailing Address			Street or Other Mailing Address		
City	State	Zip Code	City	State	Zip Code

Check Type of Certificate

☐ Single Purchase ☐ Blanket If blanket is checked, this certificate is valid until revoked in writing by the purchaser.

I hereby certify that the purchase, lease, or rental by the above purchaser is exempt from the Nebraska sales tax for the following reason:

Check One ☐ Purchase for Resale (Complete Section A) ☐ Exempt Purchase (Complete Section B) ☐ Contractor (Complete Section C)

SECTION A—Nebraska Resale Certificate

Description of Item or Service Purchased

I hereby certify that the purchase, lease, or rental of from the above seller is exempt from the Nebraska sales tax as a purchase for resale, rental, or lease in the normal course of our business, either in the form or condition in which purchased, or as an ingredient or component part of other property to be resold.

I further certify that we are engaged in business as a: ☐ Wholesaler ☐ Retailer ☐ Manufacturer ☐ Lessor
of Description of Product Sold, Leased, or Rented

and hold Nebraska Sales Tax Permit Number 01- If None, State Reason

or Foreign State Sales Tax Number State

SECTION B—Nebraska Exempt Sale Certificate

The basis for this exemption is exemption category (Insert appropriate category as described on reverse of this form.)

If exemption category 2 or 5 is claimed, enter the following information:

Description of Item(s) Purchased	Intended Use of Item(s) Purchased

If exemption categories 3 or 4 are claimed, enter the Nebraska Exemption Certificate number. 05-

If exemption category 6 is claimed, seller must enter the following information and sign this form below:

Description of Item(s) Sold	Date of Seller's Original Purchase	Was Tax Paid when Purchased by Seller? <input type="checkbox"/> YES <input type="checkbox"/> NO	Was Item Depreciable? <input type="checkbox"/> YES <input type="checkbox"/> NO

SECTION C—For Contractors Only

1. Purchases of Building Materials or Fixtures:

☐ As an Option 1 or Option 3 contractor, I hereby certify that purchases of building materials and fixtures from the above seller are exempt from Nebraska sales tax. My Nebraska Sales or Consumer's Use Tax Permit Number is: 01-

2. Purchases Made Under Purchasing Agent Appointment on behalf of (exempt entity):

☐ Pursuant to an attached Purchasing Agent Appointment and Delegation of Authority for Sales and Use Tax, Form 17, I hereby certify that purchases of building materials, and fixtures are exempt from Nebraska sales tax.

Any purchaser, or their agent, or other person who completes this certificate for any purchase which is other than for resale, lease, or rental in the regular course of the purchaser's business, or is not otherwise exempted from the sales and use tax under Neb. Rev. Stat. §§77-2701 through 77-27,135, shall in addition to any tax, interest, or penalty otherwise imposed, be subject to a penalty of \$100 or ten times the tax, whichever amount is larger, for each instance of presentation and misuse. With regard to a blanket certificate, this penalty shall apply to each purchase made during the period the blanket certificate is in effect. Under penalties of law, I declare that I am authorized to sign this certificate, and to the best of my knowledge and belief, it is correct and complete.

sign
here

Authorized Signature

Title

Date

OPTION 2



- CONSUMER of all building materials
- Maintains tax-paid inventory
- Does NOT collect sales tax on CCPs

OPTION 3



- CONSUMER of all building materials
- Maintains tax-exempt inventory
 - Give suppliers [Form 13](#), Section C, Block 1
- Remits use tax on cost of building materials and fixtures
 - At rate in effect at time and place inventory is withdrawn
- Does NOT collect sales tax on CCPs

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SECTION A—Nebraska Resale Certificate

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I further certify that we are engaged in business as a: ☐ Wholesaler ☐ Retailer ☐ Manufacturer ☐ Lessor
of Description of Product Sold, Leased, or Rented

and hold Nebraska Sales Tax Permit Number 01- If None, State Reason

or Foreign State Sales Tax Number State

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Description of Item(s) Sold	Date of Seller's Original Purchase	Was Tax Paid when Purchased by Seller? <input type="checkbox"/> YES <input type="checkbox"/> NO	Was Item Depreciable? <input type="checkbox"/> YES <input type="checkbox"/> NO
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SECTION C—For Contractors Only

1. Purchases of Building Materials or Fixtures:

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Any purchaser, or their agent, or other person who completes this certificate for any purchase which is other than for resale, lease, or rental in the regular course of the purchaser's business, or is not otherwise exempted from the sales and use tax under Neb. Rev. Stat. §§77-2701 through 77-27,135, shall in addition to any tax, interest, or penalty otherwise imposed, be subject to a penalty of \$100 or ten times the tax, whichever amount is larger, for each instance of presentation and misuse. With regard to a blanket certificate, this penalty shall apply to each purchase made during the period the blanket certificate is in effect. Under penalties of law, I declare that I am authorized to sign this certificate, and to the best of my knowledge and belief, it is correct and complete.

sign
here

Authorized Signature

Title

Date

CONTRACTOR REMINDER:

- Building materials **DO NOT INCLUDE** tools, equipment, or services that do not become annexed to real estate
- Contractors **MUST PAY SALES OR USE TAX** on purchases of these items!

BUILDING CLEANING and PEST CONTROL SERVICES

- These services are NOT “contractor labor” (even when performed at the construction site)
- Contractors **MUST PAY SALES TAX** on purchases of these services, even if the project owner is an exempt entity

Example: Termite treatment, or a 3rd party crew hired to clean up inside a building

LANDSCAPERS

3 types of transactions

1. Retail Sales

Taxable at rate in effect where delivery occurs

2. Contractor Labor

Not taxable

3. Other Services (not construction)

Taxability determined by type of service

Landscapers (continued)



- **Retail Sales**
 - Live plants
 - Labor charges to plant them
 - Pest control services (like grub control)
- **Contractor Labor**
 - Building or repairing retaining walls, berms, or ponds
 - Installing and repairing underground sprinkler systems
- **Nontaxable Services**
 - Lawn mowing, tree trimming, fertilizing, or snow removal

BUILDING MATERIALS & FIXTURES FOR A JOB SITE OUTSIDE NEBRASKA

OPTION 1 (Out-of-State)

NO NEBRASKA SALES OR USE TAX LIABILITY

- When withdrawing building materials and fixtures from tax-free inventory
- That are annexed to real estate in another state

OPTION 2 (Out-of-State)

NO NEBRASKA SALES TAX CREDIT

- When withdrawing building materials and fixtures from tax-paid inventory
- Credit for sales tax paid may be available from the other state
- These contractors may have the supplier deliver materials to the job site out-of-state and pay no Nebraska sales & use tax

OPTION 3 (Out-of-State)

REMITS USE TAX TO NEBRASKA

- When withdrawing building materials and fixtures from tax-free inventory
- At the rate in effect at the time and place inventory is withdrawn
- These contractors may have the supplier deliver materials to the job site out-of-state and pay no Nebraska sales & use tax

CONSTRUCTION CONTRACTS WITH EXEMPT ENTITIES

EXEMPT ENTITIES



- How do I know if the project owner is an exempt entity?
 - Governmental Entity info guide
 - Nonprofit info guide
 - Contact the Department
- **REMINDER:**
Not ALL nonprofits or governmental units are exempt from sales tax!

Form 17

“Purchasing Agent Appointment and Delegation of Authority for Sales and Use Tax”

- Supports why tax was not paid or collected on building materials and fixtures for construction projects with exempt entities.

Exempt Entities (continued)

PRIME CONTRACTORS

- Receive Form 17 from project owner PRIOR TO the start of the project
- Complete the lower portion
- Provide copies to any subcontractors on the project so they can buy building materials and fixtures tax-exempt

Purchasing Agent Appointment and Delegation of Authority for Sales and Use Tax

FORM
17

PURCHASING AGENT APPOINTMENT			
Name and Address of Prime Contractor		Name and Address of Governmental Unit or Exempt Organization	
Name		Name	
Street or Other Mailing Address		Street or Other Mailing Address	
City	State	City	State
	Zip Code		Zip Code
Name and Location of Project		Appointment Information	
Name		Effective Date (see Instructions)	
Street or Other Mailing Address		Expiration Date	
City	State	Nebraska Exemption Number (Exempt Organizations Only)	
	Zip Code		
Identify Project			

The undersigned governmental unit or exempt organization appoints the above-named contractor and the contractor's delegated subcontractors as its agent to purchase and pay for building materials that will be annexed to real estate by them into the tax exempt construction project stated above.

**sign
here**

Authorized Signature of Governmental Unit or Exempt Organization

Title

Date

DELEGATION OF PRIME CONTRACTOR'S AUTHORITY			
Name and Address of Subcontractor		Delegation Information	
Name		Effective Date	
Street or Other Mailing Address		Expiration Date	
City	State	Portion of Project	
	Zip Code		

The undersigned prime contractor hereby delegates authority to act as the purchasing agent of the named governmental unit or exempt organization to the above-named subcontractor.

**sign
here**

Signature of Prime Contractor or Authorized Representative

Title

Date

Exempt Entities (continued)

OPTION 1

- Purchases building materials & fixtures tax-exempt by giving [Form 13](#), Section C, Block 1 to the Nebraska supplier
- DOES NOT collect sales tax on items when it obtains a properly completed [Form 17](#) PRIOR TO the start of the project

Exempt Entities (continued)

OPTION 2

- Purchases building materials & fixtures tax-exempt by giving
 - A copy of [Form 17](#)
and
 - [Form 13](#), Section C, Block 2
to the Nebraska supplier.

Exempt Entities (continued)

OPTION 3

- Purchases building materials & fixtures tax-exempt by giving [Form 13](#), Section C, Block 1 to the Nebraska supplier
- DOES NOT owe use tax on items when it obtains a properly completed [Form 17](#) PRIOR TO the start of the project

Exempt Entities (continued)

- **ONLY** building materials and fixtures that become annexed to real estate may be purchased tax-exempt
- Contractors **MUST** pay sales or use tax on all purchases or rentals of equipment, tools, and taxable services used to complete the project.

Routine, On-call Repair For Exempt Entities

Contractors who are on-call for exempt entities may obtain a Form 17 for routine, on-call repair.

- There must be a written agreement
- One year period of time only


REPAIR OR ANNEXATION OF EXEMPT MANUFACTURING MACHINERY AND EQUIPMENT (MME)

MME



- When work on MME involves charges for contractor labor:
 - Contractor labor is sales tax-exempt
 - Contractor option chosen determines taxability of purchases of MME, or any repair parts

OPTION 1 (MME)



- Obtains [Form 13](#), Section B, Category 5 from manufacturer
- May purchase MME tax-exempt
- Does not collect sales tax on MME, PROVIDED a completed Form 13 is received from the manufacturer

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Authorized Signature

Title

Date

OPTIONS 2 & 3 (MME)

- Owe sales or use tax on MME and on parts purchased and annexed to manufacturer's real estate
- Cannot accept a Form 13, Section B, Category 5 from the manufacturer
- Manufacturer can purchase MME tax-exempt directly from a 3rd party vendor



**Let us know what you think.
Please turn in your evaluation!**

THANK YOU!